

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 202008157	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/23/2020 9:00 AM	Location of Incident: § 87(2)(b)	Precinct: 49	18 Mo. SOL 2/23/2022	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 12/03/2020 7:50 AM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 12/14/2020 11:02 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 David Sammarco	971	937471	047 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 James White		929351	DBBX OP

Officer(s)	Allegation	Investigator Recommendation
A.DT3 David Sammarco	Force: Detective David Sammarco used physical force against § 87(2)(b)	§ 87(2)(b)
B.DT3 David Sammarco	Abuse: Detective David Sammarco threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On December 7, 2020, § 87(2)(b) filed this complaint with IAB via telephone. On December 14, 2020, the complaint was forwarded to the CCRB via IAB log #2020-28338.

At approximately 2:21 a.m. on August 23, 2020, § 87(2)(b) was § 87(2)(b) in the Bronx. Police and EMS responded to the scene of the shooting and transported § 87(2)(b) to § 87(2)(b) for medical treatment. He was sedated in the ambulance. Later that day, he woke up in a hospital bed. There, Detective David Sammarco of the 47th Precinct Detective Squad questioned § 87(2)(b) about the shooting. § 87(2)(b) declined to answer him. Detective Sammarco allegedly pulled back § 87(2)(b)'s fingers, causing pain (**Allegation A: Force – Physical force, § 87(2)(g)**). When § 87(2)(b) still refused to answer questions, Detective Sammarco allegedly threatened to arrest him (**Allegation B: Abuse of Authority – Threat of arrest, § 87(2)(g)**). § 87(2)(b) again refused to answer questions. § 87(2)(b) was not ultimately arrested.

No video footage was found from this incident.

Findings and Recommendations

Allegation (A) Force: Detective David Sammarco used physical force against § 87(2)(b)

§ 87(2)(b) was interviewed by the CCRB on January 7, 2021. Detective Sammarco was interviewed by the CCRB on November 10, 2021.

It is undisputed that § 87(2)(b) was shot at approximately 2:21 a.m. on August 23, 2020. He was transported by EMS to § 87(2)(b) in the Bronx. While there, Detective Sammarco, who was assigned to investigate the shooting, questioned § 87(2)(b) about the shooting.

§ 87(2)(b) stated that several police officers and EMTs responded to the scene of the shooting at § 87(2)(b). He identified Detective Sammarco as one of these officers. § 87(2)(b) did not mention any previous interactions with Detective Sammarco. EMS sedated § 87(2)(b) before driving him to the hospital. He woke up in a hospital bed. Detective Sammarco was there, along with another plainclothes officer and two uniformed officers. § 87(2)(b) described the other plainclothes officer as a 5'7" tall white or Hispanic male with thinning black hair. Detective Sammarco tried to question § 87(2)(b) about the shooting, but § 87(2)(b) refused, stating that the shooting was a personal matter between him and the perpetrator.

§ 87(2)(b) then went to sleep. He was woken up later when he felt pain in his left hand. He woke and found that Detective Sammarco was pulling his left index finger and thumb back, causing the pain. § 87(2)(b) estimated that it was about 4:30 a.m. at the time. The other plainclothes officer was there, but the uniformed officers were not. Detective Sammarco started asking § 87(2)(b) again about the shooting, but § 87(2)(b) still refused to discuss it. Detective Sammarco later spoke to § 87(2)(b)'s attorney via cell phone. After the incident, § 87(2)(b)'s attorney identified Detective Sammarco by name as the officer he spoke to over the phone.

The investigation was unable to obtain a HIPAA medical release form from § 87(2)(b). The investigation was thus unable to obtain copies of his medical records.

Detective Sammarco stated that he did not start his tour of duty on August 23, 2020 until 8:00 a.m., several hours after the shooting. He did not respond to the initial shooting. The investigation into

the shooting was initially handled by investigators assigned to Night Watch. It was assigned to Detective Sammarco at the start of his tour. Detective Sammarco was familiar with § 87(2)(b) because he had been previously identified as the perpetrator in a robbery case investigated by a different investigator at the 47th Precinct Detective Squad.

Detective Sammarco went to § 87(2)(b) to interview § 87(2)(b). He believed that he spoke to Night Watch detectives before he spoke to § 87(2)(b) but did not know who he spoke to or whether Night Watch had interviewed § 87(2)(b). He did not specifically recall if any officers spoke to § 87(2)(b) before he did. At around 9:00 a.m., Detective Sammarco spoke to § 87(2)(b) in the hospital. He did not recall if any other people were in the room, including other officers. He did not recall any 5'7" tall white or Hispanic male officers with thinning black hair accompanying him. He denied that any officers matching that description work with him at the 47th Precinct Detective Squad. § 87(2)(b) was not sleeping at the time and did not appear to be sedated or otherwise in an altered mental state. When Detective Sammarco tried to question § 87(2)(b) about the shooting, § 87(2)(b) refused to answer or cooperate with the investigation. Detective Sammarco spent about ten minutes trying to persuade § 87(2)(b) to cooperate but was unsuccessful. Detective Sammarco then left. He had no further conversations with § 87(2)(b). He did not recall speaking to § 87(2)(b)'s attorney. Detective Sammarco was not aware of any other officers interviewing § 87(2)(b) after him. He denied pulling on § 87(2)(b)'s fingers or otherwise using physical force against him.

Detective Sammarco prepared several entries in the DD5s documenting the shooting investigation (Board Review #01). One of the entries, made at 8:20 a.m. on August 23, 2020, stated that Detective Sammarco conferred with a Night Watch detective, identified as Detective James White of Detective Borough Bronx Operations. Detective White informed Detective Sammarco that he had interviewed § 87(2)(b) at the hospital and that § 87(2)(b) claimed not to know who shot him. A second entry, made at 9:00 a.m. that day, states that Detective Sammarco interviewed § 87(2)(b) at the hospital. § 87(2)(b) provided a brief account of the shooting. No other officers are identified as being present during this interview. The DD5s also indicate that at 10:30 a.m. on August 23, 2020, Detective White prepared a UF-49 report to document the shooting. The text of the UF-49 is recorded in the DD5 entry. It states that Detective White interviewed § 87(2)(b) immediately after his arrival at the hospital.

When shown these DD5 entries, Detective Sammarco stated that he had no independent recollection of the conversation with Detective White. It was pointed out to Detective Sammarco that the second entry indicated, contrary to his testimony, that § 87(2)(b) did provide information about his shooting. Detective Sammarco stated that he did not independently recall § 87(2)(b) providing any statement during the hospital interview. He did not recall how he obtained the information in the second DD5 entry.

Detective Sammarco's memo book and the detective squad's roll call both confirm that Detective Sammarco started his tour at 8:00 a.m. on August 23, 2020 (Board Review #02-03). He does not have a partner listed in either document.

According to the CTS database, Detective White left the NYPD at some point after this incident. Confirmation of his departure from the service has been requested from DAO and is still pending. Detective White's memo book indicates that he was assigned to Bronx Night Watch on August 23, 2020, but it does not indicate what hours he worked or have any entries detailing his activities that day (Board Review #04).

Based on the DD5 entries, the investigation determined that, rather than having two distinct interviews with Detective Sammarco while at the hospital, § 87(2)(b) had two separate interviews:

one with Detective White from Night Watch upon his arrival at the hospital, and one later in the day with Detective Sammarco. Detective Sammarco did not begin his tour on August 23, 2020 until 8:00 a.m., several hours after both the shooting and the alleged time of the two interviews. The DD5s document that the second interview actually took place at around 9:00 a.m., shortly after Detective Sammarco began his tour. Because Detective Sammarco conducted the second interview, and because § 87(2)(b) identified him by name, he can be identified as the subject officer.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Detective David Sammarco threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that at some time prior to the shooting, he learned that an I-card had been issued for him after he allegedly violated an order of protection. Approximately three days prior to the shooting, § 87(2)(b) contacted an unidentified detective and arranged to turn himself in. He had not done so yet at the time of the shooting, so the I-card was still active. When Detective Sammarco asked for information during the second interview, he warned § 87(2)(b) that he would arrest him pursuant to his I-card if he did not cooperate with the investigation into the shooting.

Detective Sammarco stated that he was not aware of § 87(2)(b) having any active warrants or I-cards at the time of the hospital interview. He denied that he threatened to arrest § 87(2)(b) pursuant to an open I-card. He denied threatening to arrest § 87(2)(b) for any reason.

Detective White prepared a UF-49 unusual occurrence report to document the shooting. The contents of the report are copied into an entry in the DD5s (Board Review #01). The narrative states that § 87(2)(b) was the subject of open I-card #§ 87(2)(b) which was active on August 23, 2020. A search by DAO, however, found no warrants or I-cards that were active for § 87(2)(b) on that date (Board Review #05).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

- § 87(2)(b) [REDACTED]
- Detective Sammarco has been a member of the service for sixteen years and has been identified as a subject officer in nineteen previous CCRB complaints and forty-eight allegations, of which three were substantiated:
 - 201407703 involved substantiated allegations of discourtesy (action), discourtesy (word) and offensive language (ethnicity). The Board recommended that he receive Command Discipline B. CTS does not list whether the NYPD applied discipline.
 - § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 3, 2021, the NYC Office of the Comptroller has no record of a Notice of Claim filed regarding this complaint.

- § 87(2)(b) [REDACTED]

Squad No.: 15

Investigator: <u>Owen Godshall</u>	<u>Inv. Owen Godshall</u>	<u>11/22/2021</u>
Signature	Print Title & Name	Date

Squad Leader: <u><i>Simon Wang</i></u>	<u>IM Simon Wang</u>	<u>11/24/21</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date